IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

Crl.Rev.Pet.No. 4600 of 2006()

CC.1649/2002 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

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REVN. PETITIONER:

M/S.STERLING CHEMICAL,
39/6681 IST FLOOR, ALAPPATT CROSS ROAD,
RAVIPURAM, COCHIN-682 015, REPRESENTED BY
ITS PARTNER, SHRI.K.P.SATISH.

BY ADV. SRI.JOY THATTIL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. MR.V.C.BABU, PROPRIETOR,
M/S.SCREEN AGENCIES, VETTIPARAMBIL (H),
N.K.SREEDHARAN ROAD, PACHALAM, COCHIN-12.

BY P.P. SRI. C.K. SURESH.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.R.P.NO. 4600 OF 2006

Dated this the 12th day of January, 2007

ORDER

The petitioner is the complainant in a prosecution under Sec.138 of the N.I. Act.

2. The complaint was filed as early as on 24/9/02. The sequence of events narrated in para-3 of the Memorandum of Revision shows that the case was not called on 25/1/03, 20/12/03, 16/6/04, 25/11/04 and 4/3/05 because of the heavy pendency of the cases before that court. The matter was adjourned by publication on the notice board, submits the learned counsel. From 30/6/05 to 28/1/06 the case was called twice. Coercive process was directed to be issued against the accused. On 26/7/06, when the matter came up for hearing, it was noticed that the requisite steps had not been taken by the complainant. Accordingly, the learned Magistrate proceeded to dismiss the complaint under Sec.204 (4) of the Cr.P.C.

3. The learned counsel for the petitioner submits that the complainant has been taking diligent steps to prosecute

the accused. He had waited in the queue all along from 2002. He had not omitted to comply with any earlier directions of the court. Unfortunately, on the previous day, when the case was adjourned to 26/7/06, the learned counsel for the petitioner had omitted to note that there was a direction to take steps. It is only, in these circumstances, that the petitioner failed to take steps. The petitioner may be given a further opportunity. The accused had not appeared before the learned Magistrate so far. In these circumstances, leniency may be shown and the petitioner may be granted one further opportunity indulgently, it is prayed.

4. In these circumstances, I am satisfied that the said request of the petitioner can be accepted.

5. This Crl.R.P. is, in these circumstances, allowed. The impugned order is set aside on condition that the petitioner takes all necessary steps to issue process to the accused before the learned Magistrate within a period of 30 days from this date. If such steps are not taken, the impugned order shall stand. The learned Magistrate shall make note of the same and no further action need in that case be taken.

Sd/-

(R. BASANT, JUDGE)

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Nan/ //true copy// P.S. To Judge